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County of Los Angeles, Jim McDonnell, Ungrey Holifield, Tawnia Rojas,
8 Ernesto Valencia, Andrew Hagewood, Matthew Vander Horck, and Allen
Castellano
9

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12

13 MAURICE LALLEMAND,
14 Plaintiff,
15

16 vs.

17 COUNTY OF LOS ANGELES, JIM
McDONNELL, UNGREY
18 HOLIFIELD, TAWNIA ROJAS,
ERNESTO VALENCIA, ANDREW
19 HAGEWOOD, MATTHEW
VANDERHORCK, ALLEN
20 CASTELLANO AND DOES 1
THROUGH 10,

21 Defendants.
22

) Case No. 2:17-cv-00781-JAK-SS

) Honorable John A. Kronstadt
23

24 **DEFENDANTS' COUNTY OF**
LOS ANGELES, JIM
McDONNELL, UNGREY
HOLIFIELD, TAWNIA ROJAS,
ERNESTO VALENCIA, ANDREW
HAGEWOOD, MATTHEW
VANDER HORCK, AND ALLEN
CASTELLANO'S ANSWER TO
PLAINTIFF'S COMPLAINT;
DEMAND FOR JURY TRIAL
25

26 **TO THE HONORABLE COURT, ALL PARTIES, AND TO THEIR**
27 **ATTORNEYS OF RECORD:**

28 COMES NOW Defendants County of Los Angeles, Jim McDonnell,
Ungrey Holifield, Tawnia Rojas, Ernesto Valencia, Andrew Hagewood, Matthew
Vander Horck, and Allen Castellano (collectively, "Defendants"), and answering

1 the Complaint herein for themselves and for no other Defendants, admit, deny
2 and allege as follows:

3 1. Answering Paragraph 1 of the Complaint, Defendants admit that
4 jurisdiction is proper. As to the remainder of the allegations set forth in this
5 paragraph, Defendants deny generally and specifically each allegation contained
6 therein.

7 2. Answering Paragraphs 2, 4, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23,
8 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 40, 41, 45, 49, 50, 54, 62, 69, 76,
9 77, 78, 82, 83, 88, 89, 90, 100, and 101 of the Complaint, Defendants lack
10 sufficient information or belief to answer said Paragraphs and, on that ground,
11 deny the allegations contained therein.

12 3. Answering Paragraph 3 of the Complaint, Defendants admit that
13 venue is proper. As to the remainder of the allegations set forth in this paragraph,
14 Defendants deny generally and specifically each allegation contained therein.

15 4. Answering Paragraph 5 of the Complaint, Defendants admit that Jim
16 McDonnell was Sheriff of the Los Angeles County Sheriff's Department. As to
17 the remainder of the allegations set forth in this paragraph, Defendants deny
18 generally and specifically each allegation set forth therein.

19 5. Answering Paragraph 6 of the Complaint, Defendants admit that
20 Defendant Allen Castellano was a Captain with the Los Angeles County Sheriff's
21 Department. As to the remainder of the allegations set forth in this paragraph,
22 Defendants deny generally and specifically each allegation set forth therein.

23 6. Answering Paragraph 7 of the Complaint, Defendants admit that
24 Defendant Matthew Vander Horck is a Lieutenant with the Los Angeles County
25 Sheriff's Department. As to the remainder of the allegations set forth in this
26 paragraph, Defendants deny generally and specifically each allegation set forth
27 therein.

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1 7. Answering Paragraph 8 of the Complaint, Defendants admit that
2 Defendant Tawnia Rojas is a deputy with the Los Angeles County Sheriff's
3 Department. As to the remainder of the allegations set forth in this paragraph,
4 Defendants deny generally and specifically each allegation set forth therein.

5 8. Answering Paragraph 9 of the Complaint, Defendants admit that
6 Defendant Ungrey Holifield is a deputy with the Los Angeles County Sheriff's
7 Department. As to the remainder of the allegations set forth in this paragraph,
8 Defendants deny generally and specifically each allegation set forth therein.

9 9. Answering Paragraph 10 of the Complaint, Defendants admit that
10 Defendant Ernesto Valencia is a deputy with the Los Angeles County Sheriff's
11 Department. As to the remainder of the allegations set forth in this paragraph,
12 Defendants deny generally and specifically each allegation set forth therein.

13 10. Answering Paragraph 11 of the Complaint, Defendants admit that
14 Defendant Andrew Hagewood is a deputy with the Los Angeles County Sheriff's
15 Department. As to the remainder of the allegations set forth in this paragraph,
16 Defendants deny generally and specifically each allegation set forth therein.

17 11. Answering Paragraph 12 of the Complaint, Defendants admit that the
18 County of Los Angeles is duly organized under the laws of the State of
19 California. Defendants further admit that the County of Los Angeles is the
20 employer of the individually named Defendants. As to the remainder of the
21 allegations set forth in this paragraph, Defendants deny generally and specifically
22 each allegation set forth therein.

23 12. Answering Paragraphs 37, 38, 42, 43, 46, 47, 51, 52, 55, 56, 57, 58,
24 59, 60, 63, 64, 65, 66, 67, 70, 71, 72, 73, 74, 79, 80, 84, 85, 86, 91, 92, 93, 95, 96,
25 97, 98, 102, 103, 104, 105, 106, 107, 108, and 109 of the Complaint, Defendants
26 deny generally and specifically each allegation set forth therein.

27 13. Answering Paragraph 39 of the Complaint, Defendants incorporate
28 by reference their responses to Paragraphs 1-38. As to the remaining allegations

1 set forth in these paragraphs, Defendants deny generally and specifically each and
2 every allegation set forth therein.

3 14. Answering Paragraph 44 of the Complaint, Defendants incorporate
4 by reference their responses to Paragraphs 1-43. As to the remaining allegations
5 set forth in these paragraphs, Defendants deny generally and specifically each and
6 every allegation set forth therein.

7 15. Answering Paragraph 48 of the Complaint, Defendants incorporate
8 by reference their responses to Paragraphs 1-47. As to the remaining allegations
9 set forth in these paragraphs, Defendants deny generally and specifically each and
10 every allegation set forth therein.

11 16. Answering Paragraph 53 of the Complaint, Defendants incorporate
12 by reference their responses to Paragraphs 1-52. As to the remaining allegations
13 set forth in these paragraphs, Defendants deny generally and specifically each and
14 every allegation set forth therein.

15 17. Answering Paragraph 61 of the Complaint, Defendants incorporate
16 by reference their responses to Paragraphs 1-60. As to the remaining allegations
17 set forth in these paragraphs, Defendants deny generally and specifically each and
18 every allegation set forth therein.

19 18. Answering Paragraph 68 of the Complaint, Defendants incorporate
20 by reference their responses to Paragraphs 1-67. As to the remaining allegations
21 set forth in these paragraphs, Defendants deny generally and specifically each and
22 every allegation set forth therein.

23 19. Answering Paragraph 75 of the Complaint, Defendants incorporate
24 by reference their responses to Paragraphs 1-74. As to the remaining allegations
25 set forth in these paragraphs, Defendants deny generally and specifically each and
26 every allegation set forth therein.

27 20. Answering Paragraph 81 of the Complaint, Defendants incorporate
28 by reference their responses to Paragraphs 1-80. As to the remaining allegations

1 set forth in these paragraphs, Defendants deny generally and specifically each and
2 every allegation set forth therein.

3 21. Answering Paragraph 87 of the Complaint, Defendants incorporate
4 by reference their responses to Paragraphs 1-86. As to the remaining allegations
5 set forth in these paragraphs, Defendants deny generally and specifically each and
6 every allegation set forth therein.

7 22. Answering Paragraph 94 of the Complaint, Defendants incorporate
8 by reference their responses to Paragraphs 1-93. As to the remaining allegations
9 set forth in these paragraphs, Defendants deny generally and specifically each and
10 every allegation set forth therein.

11 23. Answering Paragraph 99 of the Complaint, Defendants incorporate
12 by reference their responses to Paragraphs 1-98. As to the remaining allegations
13 set forth in these paragraphs, Defendants deny generally and specifically each and
14 every allegation set forth therein.

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16 **AFFIRMATIVE DEFENSES**

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18 **FIRST AFFIRMATIVE DEFENSE**

19 24. The Complaint fails to state a cause of action against Defendants.

20 **SECOND AFFIRMATIVE DEFENSE**

21 25 The individual Defendants are entitled to qualified immunity since
22 there was no constitutional violation, the applicable law was not clearly
23 established and since a reasonable official could have believed that the alleged
24 conduct was lawful.

25 **THIRD AFFIRMATIVE DEFENSE**

26 26. That pursuant to California Government Code §818, and *Newport*
27 *City v. Fact Concerts, Inc.*, 453 U.S. 247, 101 S.Ct. 2748 (1981), this public
28

1 entity defendant is not liable for exemplary or punitive damages in any sum, or at
2 all.

3 **FOURTH AFFIRMATIVE DEFENSE**

4 27. That Plaintiff's Complaint fails to state a cause of action against this
5 public entity Defendant for, pursuant to Monell v. Department of Social Services
6 of the City of New York, 56 L.Ed.2d 611 (1978), there can be no recovery for a
7 federal civil rights violation where there is no constitutional deprivation occurring
8 pursuant to governmental policy or custom.

9 **FIFTH AFFIRMATIVE DEFENSE**

10 28. That Plaintiff's Complaint does not state facts sufficient to constitute
11 a cause of action against this defendant or any defendant herein, because simple
12 negligence pursuant to the United States Supreme Court decision of *Parratt v.*
13 *Taylor*, 451 U.S. 527 (1981), is not a federal civil rights violation.

14 **SIXTH AFFIRMATIVE DEFENSE**

15 29. A conspiracy cannot be generally alleged in an action brought under
16 the Federal Civil Rights Act.

17 **SEVENTH AFFIRMATIVE DEFENSE**

18 30. Under the Civil Rights Act, where intent is an element of the claim,
19 the facts must be alleged in the Complaint with specificity.

20 **EIGHTH AFFIRMATIVE DEFENSE**

21 31. The County Sheriff and his subordinates act on behalf of the State,
22 not the County, when engaged in law enforcement activities, consequently, any
23 policies, practices or customs alleged in the Complaint are not those of the
24 County.

25 **NINTH AFFIRMATIVE DEFENSE**

26 32. The County is immune from liability under the Eleventh Amendment
27 to the Constitution of the United States.

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1 **TENTH AFFIRMATIVE DEFENSE**

2 33. Neither a public entity nor a public employee is liable for his act or
3 omission, exercising due care, in the execution or enforcement of any law.

4 **ELEVENTH AFFIRMATIVE DEFENSE**

5 34. Neither a public employee nor a public entity is liable for any injury
6 caused by the act or omission of another person.

7 **TWELFTH AFFIRMATIVE DEFENSE**

8 35. Neither a public entity nor a public employee acting within the scope
9 of his employment is liable for any injury caused by a public employee's
10 misrepresentation, whether the misrepresentation be negligent or intentional.

11 **THIRTEENTH AFFIRMATIVE DEFENSE**

12 36. Neither a public entity nor a public employee is liable for any injury
13 resulting from his act or omission where the act or omission was the result of the
14 exercise of the discretion vested in him.

15 **FOURTEENTH AFFIRMATIVE DEFENSE**

16 37. Neither a public entity nor a public employee is liable for his act or
17 omission, exercising due care, in the execution or enforcement of any law.

18 **FIFTEENTH AFFIRMATIVE DEFENSE**

19 38. Any injury to Plaintiff was due to and caused by the negligence and
20 omissions of the plaintiff to care for himself, which carelessness and negligence
21 and omissions were the proximate cause of the damage, if any, to Plaintiff.

22 **SIXTEENTH AFFIRMATIVE DEFENSE**

23 39. That the damages, if any, should be in direct proportion to the fault
24 of Defendants, if any, as provided by Civil Code §§1431 to 1431.5.

25 **SEVENTEENTH AFFIRMATIVE DEFENSE**

26 40. To the extent that Plaintiff suffered any detriment, such detriment
27 was caused or contributed to by plaintiff's negligence and damage, if any, should
28 be reduced in direct proportion to his fault.

EIGHTEENTH AFFIRMATIVE DEFENSE

41. The negligence of a third-party or parties was a superseding, intervening cause of the plaintiff's injuries.

NINETEENTH AFFIRMATIVE DEFENSE

42. Plaintiff failed to mitigate his damages.

TWENTIETH AFFIRMATIVE DEFENSE

43. That any injury or damage suffered by Plaintiff was caused solely by reason of Plaintiff's wrongful acts and conduct and the willful resistance to a peace officer in the discharge, and attempt to discharge, the duty of his office, and not by reason of any unlawful acts or omissions of these Defendants.

TWENTY-FIRST AFFIRMATIVE DEFENSE

44. That the force, if any, used on Plaintiff was reasonable under the circumstances and that any injury or damages allegedly suffered by Plaintiff were due to and caused by reason of Plaintiff's acts and conduct in the unlawful assault and battery committed by Plaintiff.

TWENTY-SECOND AFFIRMATIVE DEFENSE

45. Plaintiff knew or should have known that he was being detained by a peace officer and had the duty to refrain from using force to resist such detention.

TWENTY-THIRD AFFIRMATIVE DEFENSE

46. To the extent that any force was used in the detention, it was privileged as necessary to affect the detention, to prevent escape, or to overcome resistance.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

47. Probable cause existed for the detention of Plaintiff.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

48. The actions of this Defendant and its employees in all respects were reasonable, proper and legal.

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TWENTY-SIXTH AFFIRMATIVE DEFENSE

49. Plaintiff was lawfully detained rather than arrested.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

50. Each of Plaintiff's state law claims is barred by the absolute "official duty" privilege of Civil Code § 47(a).

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

51. Each of Plaintiff's state law claims is barred as having some connection with or logical relation to an "official proceeding" within the absolute privilege of Civil Code § 47(b).

TWENTY-NINTH AFFIRMATIVE DEFENSE

52. Each of Plaintiff's state law claims is barred by the immunity for discretionary acts under California Government Code § 820.2.

THIRTIETH AFFIRMATIVE DEFENSE

53. Plaintiff fails to allege a statutory basis for his state law claims.

THIRTY-FIRST AFFIRMATIVE DEFENSE

54. Plaintiff failed to comply with the California Government Claims Act.

THIRTY-SECOND AFFIRMATIVE DEFENSE

55. All answering Defendants are immune pursuant to California Penal Code §§ 834a and 847.

THIRTY-THIRD AFFIRMATIVE DEFENSE

56. All answering Defendants are immune pursuant to California Civil Code § 43.55.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

57. Plaintiff's California Civil Code § 52.1 claim fails because the alleged detention does not satisfy the elements required for relief under Civil Code § 52.1.

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1 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

2 58. Plaintiff's California Penal Code § 148 claim fails as this statute
3 does not support a private right of action, and this "tort in essence" is superfluous
4 and redundant of Plaintiff's other claims.

5 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

6 59. Plaintiff's claims against the individual Defendants in their official
7 capacity are duplicative of the claims against the County.

8 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

9 60. These answering Defendants did not violate Plaintiff's First
10 Amendment Rights.

11 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

12 61. These answering Defendants did not violate Plaintiff's Fourteenth
13 Amendment Rights.

14 **THIRTY-NINTH AFFIRMATIVE DEFENSE**

15 62. These answering Defendants did not violate Plaintiff's Fourth
16 Amendment Rights.

17 **FORTIETH AFFIRMATIVE DEFENSE**

18 63. Plaintiff's Complaint fails to state a cause of action against
19 Defendants for punitive damages in that punitive damages violate Defendants'
20 due process of law rights.

21 **FORTY-FIRST AFFIRMATIVE DEFENSE**

22 64. This action is barred by operation of the applicable statute of
23 limitations including, without limitation, Sections 335.1, 338, 339, 340, and 342
24 of the California Code of Civil Procedure.

25 **FORTY-SECOND AFFIRMATIVE DEFENSE**

26 65. This action is barred, in whole or in part, by the doctrine of waiver.

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1 **FORTY-THIRD AFFIRMATIVE DEFENSE**

2 66. Plaintiff's claims and requests for relief are barred, in whole or in
3 part, by the doctrine of unclean hands.

4 **FORTY-FOURTH AFFIRMATIVE DEFENSE**

5 67. Plaintiff has failed to exhaust all of his administrative remedies.

6 **FORTY-FIFTH AFFIRMATIVE DEFENSE**

7 68. Plaintiff's claims and requests for relief are barred, in whole or in
8 part, by the doctrine of estoppel.

9 **FORTY-SIXTH AFFIRMATIVE DEFENSE**

10 69. Plaintiff's claims and requests for relief are barred, in whole or in
11 part, by the doctrine of consent.

12 **FORTY-SEVENTH AFFIRMATIVE DEFENSE**

13 70. Because Plaintiff's Complaint is couched in conclusory terms,
14 Defendants cannot fully anticipate all the affirmative defenses that may be
15 applicable to the within action. Accordingly, the right to assert additional
16 affirmative defenses, if and to the extent that such affirmative defenses are
17 applicable, is hereby reserved.

18 **FORTY-EIGHTH AFFIRMATIVE DEFENSE**

19 71. Worker's Compensation is Plaintiff's exclusive remedy, thereby
20 barring his claims in their entirety.

21 **FORTY-NINTH AFFIRMATIVE DEFENSE**

22 72. Each of Plaintiff's state law claims against this public entity
23 Defendant is barred by California Government Code § 815.2(b).

24 **FIFTIETH AFFIRMATIVE DEFENSE**

25 73. Pursuant to *Monell v. Department of Social Services of the City of*
26 *New York*, 436 U.S. 658, 98 S.Ct. 2018 (1978), there can be no recovery for a
27 federal civil rights violation where there is no constitutional deprivation occurring
28 pursuant to governmental policy or custom.

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2 WHEREFORE, Defendants County of Los Angeles, Jim McDonnell,
3 Ungrey Holifield, Tawnia Rojas, Ernesto Valencia, Andrew Hagewood, Matthew
4 Vander Horck, and Allen Castellano pray that Plaintiff take nothing by way of his
5 Complaint and that Defendants herein recover their costs, attorneys' fees, and
6 such other and further relief as the Court may deem just and proper.
7

8 Dated: May 10, 2017

LAWRENCE BEACH ALLEN & CHOI, PC

9
10 By /s/ Jin S. Choi
11 Jin S. Choi
12 Attorneys for Defendants
13 County of Los Angeles, Jim
14 McDonnell, Ungrey Holifield, Tawnia
15 Rojas, Ernesto Valencia, Andrew
16 Hagewood, Matthew Vander Horck,
17 and Allen Castellano
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DEMAND FOR JURY TRIAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT

PLEASE TAKE NOTICE that Defendants County of Los Angeles, Jim McDonnell, Ungrey Holifield, Tawnia Rojas, Ernesto Valencia, Andrew Hagewood, Matthew Vander Horck, and Allen Castellano demand a trial by jury pursuant to Federal Rules of Civil Procedure, Rule 38(b) and Local Rule 38-1.

Dated: May 10, 2017

LAWRENCE BEACH ALLEN & CHOI, PC

By /s/ Jin S. Choi

Jin S. Choi
Attorneys for Defendants
County of Los Angeles, Jim
McDonnell, Ungrey Holifield, Tawnia
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